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U.S. BANKRUPTCY COURT
W.D. OF W. AT SEATTLE

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In re:

SCOTT TOWNLEY and
STEPHANIE TASHIRO-TOWNLEY

Debtors.

Chapter 13 Case No. 09-22120

Internal Appeal No. 10-S037

BAP No.

RESPONSE TO TRUSTEE'S MOTION FOR
DISMISSAL OF APPEAL

Come now Debtors Scott Townley and Stephanie Tashiro-Townley and respond to Trustee's Motion to Dismiss the Appeal in Bankruptcy Appellate Panel. Debtors assert the following:

1. Debtors filed the Notice of Appeal on October 15, 2010 at 2:08pm as the stamps on the Notice of Appeal and the Order for Denial of the Motion for Reconsideration.
2. Debtors assert that they submitted two copies of the Notice of Appeal and the Order to the Office of the Clerk, one of which was returned to the Debtors (personal copy). This personal copy was also stamped October 15, 2010 at 2:08pm.
3. Debtors paid the \$255 fee in cash as noted in the Docket on October 15, 2010.
4. Debtors assert that it was the personal copy with the stamp of the Office of the Clerk that was copied and served to all of the creditors on the creditor matrix including the Bankruptcy Trustee via US Mail on October 15, 2010.
5. Debtors assert that they had a conversation with Sandra Israel at the Office of the Clerk on Monday, October 18th after a voicemail was received by Debtors on Friday, October 15th stating that they had misplaced the Order that I had submitted. When

1 Debtors called in on October 18th, Sandra Israel, a Bankruptcy Office of the Clerk
2 employee confirmed that she “certified” the Notice of Appeal, the Order and the
3 other exhibit submitted to them on October 15. Sandra did not mention to the
4 Debtors that the Office of the Clerk had not filed the documents on October 15th
5 when the Debtors had originally filed them with the Office of the Clerk.
6

- 7 6. Debtors fully dispute the claim within the Trustee’s Motion that the document was
8 not filed on October 15th. The Debtors have provided a copy of this document
9 from their Docket via PACER. When looking at the document, the stamp clearly
10 demonstrates the date October 15th not October 18th. Therefore, the Debtors
11 have met the requirement for filing a Notice of Appeal per the BAP rules which
12 state:
13

14 A. Time and Method for Filing a Notice of Appeal
15 A notice of appeal must be filed with the bankruptcy
16 court within 14 days of entry of the judgment, order,
17 or decree appealed from. FRBP 8001(a), 8002, and
18 9006(a) (effective December 1, 2009). The appellant must attach
19 to the notice of appeal a copy of the entered judgment, order
20 or decree from which the appeal was taken, if available.
21

22 Conclusion

23 Debtors respectfully request entry of an order Denying the Trustee’s
24 MOTION FOR DISMISSAL OF APPEAL and allow for the appeal to continue
25 due to the Notice of Appeal having been filed within the 14 day timeframe as
26 stated in BAP Rule.

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DATED this 21st day of October, 2010.

Scott C. Townley Signed by wife
Scott Townley, pro se Stephanie
Townley
Stephanie Tashiro-Townley
Stephanie Tashiro-Townley, pro se